

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 986**

FINAL READING

Introduced by Preister, 5; Carlson, 38; Christensen, 44; Dierks,  
40; Dubas, 34; Fischer, 43; Kopplin, 3; Wallman, 30.

Read first time January 15, 2008

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to recycling; to amend sections 81-1504.01  
2 and 81-15,160, Revised Statutes Supplement, 2007; to  
3 adopt the Electronics Recycling Act; to provide fees;  
4 to provide for a report regarding and grants from the  
5 Waste Reduction and Recycling Incentive Fund; to delete  
6 obsolete provisions; to harmonize provisions; to provide  
7 severability; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 11 of this act shall be known  
2 and may be cited as the Electronics Recycling Act.

3           Sec. 2. The purpose of the Electronics Recycling Act is  
4 to establish a comprehensive electronic device recycling system  
5 that ensures the safe and environmentally sound management of  
6 electronic devices and encourages the design of electronic devices  
7 that are recyclable and less toxic.

8           Sec. 3. For purposes of the Electronics Recycling Act:

9           (1) Computer means a desktop, portable or laptop,  
10 electronic, magnetic, optical, electrochemical, or other high-speed  
11 data processing device which is capable of performing logical,  
12 arithmetic, or storage functions, and includes, but is not limited  
13 to, a computer central processing unit and a monitor. Computer  
14 does not include an automated typewriter or typesetter, a portable  
15 handheld calculator, a portable digital assistant, or other similar  
16 device;

17           (2) Department means the Department of Environmental  
18 Quality;

19           (3) (a) Electronic device means a computer, monitor, video  
20 display device, or television, intended for use in a home or  
21 residential environment and marketed to the general public; and

22           (b) Electronic device does not include:

23           (i) An electronic device that is a part of a motor  
24 vehicle or any component part of a motor vehicle assembled by  
25 or for a vehicle manufacturer or franchise dealer, including

1 replacement parts for use in a motor vehicle;

2 (ii) An electronic device that is functionally or  
3 physically a part of a larger piece of equipment that is designed  
4 or intended for use in an industrial, commercial, governmental,  
5 or medical setting, including diagnostic, monitoring, or control  
6 equipment;

7 (iii) An electronic device that is contained within  
8 a clothes washer, clothes dryer, refrigerator, refrigerator and  
9 freezer, microwave oven, conventional oven or range, dishwasher,  
10 room air conditioner, dehumidifier, or air purifier; or

11 (iv) A telephone of any type unless it contains a video  
12 display area greater than nine inches measured diagonally or any  
13 hand-held device used to access commercial mobile radio service as  
14 referenced in 47 C.F.R. 20.9, as such regulation existed on January  
15 1, 2008;

16 (4) Manufacturer means a person who:

17 (a) Sells electronic devices under its own brand or label  
18 for sale in the United States;

19 (b) Sells electronic devices in this state without  
20 affixing a brand or label onto such device;

21 (c) Resells in this state under its own brand or label  
22 electronic devices manufactured by another firm or entity, unless  
23 the firm or entity which manufactured the electronic devices sold  
24 under the brand or label of the reseller meets the registration  
25 requirements of the act;

1           (d) Imports electronic devices into the United States. If  
2 the company from whom an importer purchases the electronic device  
3 has a presence or assets in the United States, that company shall  
4 be deemed to be the manufacturer; or

5           (e) Manufactures electronic devices, supplies them to any  
6 person within a distribution network that includes wholesalers or  
7 retailers in this state, and benefits from the sale in this state  
8 of such electronic devices through the distribution network;

9           (5) Monitor means a separate video display component of  
10 a computer that does not contain a tuner, whether sold separately  
11 or together with a computer central processing unit or computer  
12 box, and includes a cathode ray tube, liquid crystal display,  
13 gas plasma, digital light processing, or other image projection  
14 technology having a viewable area greater than four inches when  
15 measured diagonally, and its case, interior wires, and circuitry;

16           (6) Recycling means any process by which an electronic  
17 device that would otherwise have become solid waste or hazardous  
18 waste is collected, separated, and processed to be returned to  
19 use in the form of raw materials or products or is refurbished or  
20 donated for reuse;

21           (7) Television means a stand-alone display system  
22 containing a cathode ray tube, liquid crystal display, gas plasma,  
23 digital light processing, or other type of display primarily  
24 intended to receive video programming via broadcast, having a  
25 viewable area greater than four inches when measured diagonally,

1 able to adhere to standard consumer video requirements, and having  
2 the capability of selecting different broadcast channels and  
3 support sound capability; and

4 (8) Video display device means a device that has an  
5 output surface having a viewable area greater than four inches  
6 when measured diagonally that displays moving graphical images or  
7 a visual representation of image sequences or pictures and shows a  
8 number of quickly changing images on a screen in fast succession  
9 to create the illusion of motion, including, but not limited to,  
10 a device that is an integral part of the display that cannot be  
11 easily removed from the display by the consumer and that produces  
12 the moving image on the screen and includes technology using a  
13 cathode ray tube, liquid crystal display, gas plasma, digital light  
14 processing, or other image projection technology.

15 Sec. 4. Beginning July 1, 2009, no manufacturer shall  
16 offer for sale in this state a new electronic device if the  
17 manufacturer is not in compliance with the Electronics Recycling  
18 Act.

19 Sec. 5. (1) On or before January 31, 2009, and each  
20 January 31 thereafter, a manufacturer who sold at least five  
21 hundred electronic devices in this state in the previous calendar  
22 year shall register and certify with the department whether the  
23 number of electronic devices sold in this state by the manufacturer  
24 in the previous calendar year falls within subdivision (1)(a),  
25 (b), or (c) of section 6 of this act and which subdivision is

1 applicable.

2 (2) On or before January 31, 2010, and each January 31  
3 thereafter, in order to receive a reduction in the registration fee  
4 pursuant to subsection (2) of section 6 of this act, a manufacturer  
5 or group of manufacturers shall certify to the department the  
6 number of electronic devices recycled as a percentage of the number  
7 of electronic devices that the manufacturer or manufacturers sold  
8 in this state in the previous calendar year in a manner that is  
9 in compliance with all applicable federal, state, and local laws,  
10 regulations, and ordinances and that the electronic devices were  
11 not exported for disposal in a manner that poses a significant risk  
12 to the public health or the environment.

13 Sec. 6. (1) On or before January 31, 2009, and each  
14 January 31 thereafter, a manufacturer shall remit to the department  
15 the following registration fee based on the number of electronic  
16 devices sold in this state by the manufacturer in the previous  
17 calendar year:

18 (a) One thousand dollars for sales of five hundred to one  
19 thousand electronic devices;

20 (b) Seven thousand five hundred dollars for sales of more  
21 than one thousand to five thousand electronic devices; or

22 (c) Twenty thousand dollars for sales of more than five  
23 thousand electronic devices.

24 (2)(a) Beginning January 31, 2009, the registration fee  
25 prescribed in subsection (1) of this section shall be reduced

1 pursuant to subdivision (b) of this subsection if the manufacturer  
2 or group of manufacturers has certified to the department  
3 the percentage of electronic devices recycled as described in  
4 subsection (2) of section 5 of this act.

5 (b) If the percentage certified pursuant to subsection  
6 (2) of section 5 of this act is at least ten percent and less  
7 than twenty percent, the manufacturer or group of manufacturers  
8 shall receive a ten percent reduction in the registration fee.  
9 If the percentage certified is at least twenty percent and less  
10 than thirty percent, such reduction shall be twenty percent. If  
11 the percentage certified is thirty percent or more, such reduction  
12 shall be fifty percent.

13 Sec. 7. The department shall:

14 (1) Collect the fees as prescribed in section 6 of this  
15 act and remit such fees to the State Treasurer for credit to the  
16 Waste Reduction and Recycling Incentive Fund;

17 (2) Beginning in FY2010-11 and each fiscal year  
18 thereafter, review and adjust the fee structure in section 6 of  
19 this act to ensure that fees are adequate to collect a minimum  
20 of one million dollars and a maximum of one million five hundred  
21 thousand dollars in the following fiscal year; and

22 (3) Exercise all powers necessary and appropriate to  
23 carry out the Electronics Recycling Act.

24 Sec. 8. A manufacturer shall provide, at no cost to  
25 the consumer, a method of returning an electronic device to

1 the manufacturer, including a postage-paid mailing package or  
2 designated collection points throughout the state, and shall not  
3 impose a fee or other charge on a consumer for the collection,  
4 transportation, handling, recycling, or reuse of electronic devices  
5 at the time and place of collection for recycling.

6           Sec. 9. The Director of Environmental Quality shall  
7 discontinue the collection of fees under the Electronics Recycling  
8 Act if he or she determines that a federal law or laws have taken  
9 effect and that such law or laws are applicable to all electronic  
10 devices sold in the United States and establish a program for  
11 the collection and recycling or reuse of all electronic devices  
12 discarded by consumers.

13           Sec. 10. All fees remitted pursuant to the Electronics  
14 Recycling Act, after deducting costs of program administration,  
15 shall be used pursuant to subsection (6) of section 81-15,160  
16 to award grants for education and information about electronics  
17 recycling, infrastructure development, and the collection,  
18 transportation, and recycling of electronic devices. Any unused  
19 fees shall be carried over and available for grants in the  
20 following year.

21           Sec. 11. The Environmental Quality Council may adopt  
22 and promulgate rules and regulations to carry out the Electronics  
23 Recycling Act.

24           Sec. 12. Section 81-1504.01, Revised Statutes Supplement,  
25 2007, is amended to read:

1           81-1504.01 The Department of Environmental Quality shall  
2 provide the following information to the Governor and to the Clerk  
3 of the Legislature by December 1 of each year:

4           (1) A report by type of service or aid provided by the  
5 use and distribution of federal funds received by the department.  
6 The report shall also include user fees, permit fees, license  
7 fees, and application fees authorized by the federal Environmental  
8 Protection Agency as follows:

9           (a) Actual expenditure of each grant or authorized fees  
10 for the most recently completed state fiscal year, including state  
11 matching funds;

12           (b) Current budget and planned use and distribution of  
13 each grant and authorized fees for the current state fiscal year,  
14 including state matching funds;

15           (c) A summary of the projected funding level of each  
16 grant and authorized fees and the impact of federal mandates and  
17 regulations upon the future use of each grant and authorized fees;  
18 and

19           (d) Program summaries including statistical summaries  
20 when applicable for the most recently completed state fiscal year  
21 and program activity goals for the current state fiscal year;

22           (2) A summary of regulations of the federal Environmental  
23 Protection Agency which the department is required to implement and  
24 which do not include federal funding assistance and the possible  
25 financial impact to the state and political subdivisions;

1           (3) A report by type of service or aid provided by the  
2 use and distribution of state general and cash funds, including  
3 user fees, permit fees, license fees, and application fees, to  
4 carry out activities that are not funded by federal grants as  
5 follows:

6           (a) Actual expenditure of state funds, by agency  
7 sections, for the most recently completed state fiscal year,  
8 including a breakdown of expenditures by personal services,  
9 operations, travel, capital outlay, and consulting and contractual  
10 services;

11           (b) Current budget and planned use and distribution of  
12 state funds, by agency sections, for the current state fiscal  
13 year, including a breakdown of expenditures for personal services,  
14 operations, travel, capital outlay, and consulting and contractual  
15 services;

16           (c) A summary of projected program funding needs based  
17 upon the statutory requirements and public demand for services and  
18 the department's assessment of anticipated needs statewide; and

19           (d) Program summaries including statistical summaries  
20 when applicable for the most recently completed state fiscal year  
21 and program activity goals for the current state fiscal year;

22           (4) A report regarding staff turnover by job class and  
23 the department's assessment of its ability to hire and retain  
24 qualified staff considering the state's personnel pay plan;

25           (5) A report listing the method used by each new or

1 existing licensee, permittee, or other person who is required by  
2 the department to establish proof of financial responsibility; ~~and~~

3 (6) A report for the previous state fiscal year relating  
4 to the purpose of the Nebraska Litter Reduction and Recycling  
5 Act and of funds credited to the Nebraska Litter Reduction and  
6 Recycling Fund; ~~and-~~

7 (7) A report for the previous state fiscal year relating  
8 to the funds credited to the Waste Reduction and Recycling  
9 Incentive Fund pursuant to section 7 of this act.

10 Sec. 13. Section 81-15,160, Revised Statutes Supplement,  
11 2007, is amended to read:

12 81-15,160 (1) The Waste Reduction and Recycling Incentive  
13 Fund is created. The department shall deduct from the fund amounts  
14 sufficient to reimburse itself for its costs of administration  
15 of the fund. The fund shall be administered by the Department  
16 of Environmental Quality. The fund shall consist of proceeds from  
17 the fees imposed pursuant to the Waste Reduction and Recycling  
18 Incentive Act and the Electronics Recycling Act.

19 (2) The fund may be used for purposes which include, but  
20 are not limited to:

21 (a) Technical and financial assistance to political  
22 subdivisions for creation of recycling systems and for modification  
23 of present recycling systems;

24 (b) Recycling and waste reduction projects, including  
25 public education, planning, and technical assistance;

1           (c) Market development for recyclable materials separated  
2 by generators, including public education, planning, and technical  
3 assistance;

4           (d) Capital assistance for establishing private and  
5 public intermediate processing facilities for recyclable materials  
6 and facilities using recyclable materials in new products;

7           (e) Programs which develop and implement composting of  
8 yard waste and composting with sewage sludge;

9           (f) Technical assistance for waste reduction and waste  
10 exchange for waste generators;

11           (g) Programs to assist communities and counties to  
12 develop and implement household hazardous waste management  
13 programs; and

14           (h) Capital assistance for establishing private and  
15 public facilities to manufacture combustible waste products and  
16 to incinerate combustible waste to generate and recover energy  
17 resources, except that no disbursements shall be made under this  
18 section for scrap tire processing related to tire-derived fuel.

19           ~~The State Treasurer shall transfer two million one~~  
20 ~~hundred thousand dollars from the Waste Reduction and Recycling~~  
21 ~~Incentive Fund to the General Fund within five days after August~~  
22 ~~16, 2002.~~

23           (3) Grants up to one million dollars annually shall be  
24 available until June 30, 2009, for new scrap tire projects only, if  
25 acceptable scrap tire project applications are received. Eligible

1 categories of disbursement under section 81-15,161 may include, but  
2 are not limited to:

3 (a) Reimbursement for the purchase of crumb rubber  
4 generated and used in Nebraska, with disbursements not to exceed  
5 fifty percent of the cost of the crumb rubber;

6 (b) Reimbursement for the purchase of tire-derived  
7 product which utilizes a minimum of twenty-five percent recycled  
8 tire content, with disbursements not to exceed twenty-five percent  
9 of the product's retail cost;~~it except that persons who applied for~~  
10 ~~a grant between June 1, 1999, and May 31, 2001, for the purchase~~  
11 ~~of tire-derived product which utilizes a minimum of twenty-five~~  
12 ~~percent recycled tire content may apply for reimbursement on or~~  
13 ~~before July 1, 2002. Reimbursement shall not exceed twenty-five~~  
14 ~~percent of the product's retail cost and may be funded in fiscal~~  
15 ~~years 2001-02 and 2002-03;~~

16 (c) Participation in the capital costs of building,  
17 equipment, and other capital improvement needs or startup costs  
18 for scrap tire processing or manufacturing of tire-derived product,  
19 with disbursements not to exceed fifty percent of such costs or  
20 five hundred thousand dollars, whichever is less;

21 (d) Participation in the capital costs of building,  
22 equipment, or other startup costs needed to establish collection  
23 sites or to collect and transport scrap tires, with disbursements  
24 not to exceed fifty percent of such costs;

25 (e) Cost-sharing for the manufacturing of tire-derived

1 product, with disbursements not to exceed twenty dollars per ton  
2 or two hundred fifty thousand dollars, whichever is less, to any  
3 person annually;

4 (f) Cost-sharing for the processing of scrap tires, with  
5 disbursements not to exceed twenty dollars per ton or two hundred  
6 fifty thousand dollars, whichever is less, to any person annually;

7 (g) Cost-sharing for the use of scrap tires for civil  
8 engineering applications for specified projects, with disbursements  
9 not to exceed twenty dollars per ton or two hundred fifty thousand  
10 dollars, whichever is less, to any person annually; and

11 (h) Disbursement to a political subdivision up to one  
12 hundred percent of costs incurred in cleaning up scrap tire  
13 collection and disposal sites.

14 The director shall give preference to projects which  
15 utilize scrap tires generated and used in Nebraska.

16 (4) Priority for grants made under section 81-15,161  
17 shall be given to grant proposals demonstrating a formal  
18 public/private partnership except for grants awarded from fees  
19 collected under subsection (6) of section 13-2042.

20 (5) Grants awarded from fees collected under subsection  
21 (6) of section 13-2042 may be renewed for up to a five-year  
22 grant period. Such applications shall include an updated integrated  
23 solid waste management plan pursuant to section 13-2032. Annual  
24 disbursements are subject to available funds and the grantee  
25 meeting established grant conditions. Priority for such grants

1 shall be given to grant proposals showing regional participation  
2 and programs which address the first integrated solid waste  
3 management hierarchy as stated in section 13-2018 which shall  
4 include toxicity reduction. Disbursements for any one year shall  
5 not exceed fifty percent of the total fees collected after rebates  
6 under subsection (6) of section 13-2042 during that year.

7 (6) Grants for education and information about  
8 electronics recycling, infrastructure development, and the  
9 collection, transportation, and recycling of electronic devices  
10 shall be awarded by the Department of Environmental Quality.

11 ~~(6)~~ (7) Any person who stores waste tires in violation  
12 of section 13-2033, which storage is the subject of abatement  
13 or cleanup, shall be liable to the State of Nebraska for the  
14 reimbursement of expenses of such abatement or cleanup paid by the  
15 Department of Environmental Quality.

16 ~~(7)~~ (8) The Department of Environmental Quality may  
17 receive gifts, bequests, and any other contributions for deposit  
18 in the Waste Reduction and Recycling Incentive Fund. Any money in  
19 the fund available for investment shall be invested by the state  
20 investment officer pursuant to the Nebraska Capital Expansion Act  
21 and the Nebraska State Funds Investment Act.

22 Sec. 14. If any section in this act or any part of any  
23 section is declared invalid or unconstitutional, the declaration  
24 shall not affect the validity or constitutionality of the remaining  
25 portions.

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1                   Sec. 15. Original sections 81-1504.01 and 81-15,160,  
2 Revised Statutes Supplement, 2007, are repealed.